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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.

WRIT PETITION NO. 6211 OF 2005

PETITIONERS

1. Mahesh Kumar, aged about 32 years, S/o. Shri Jagprasad Soni, R/o. Baloda, Tehsil-Janjgir District-Janjgir-Champa (C.G.)
2. Rakesh Soni, S/o. Shri Jagprasad Soni, aged about 28 years, R/o. Shyam Bazar, Baloda, Tehsil Janjgir, District Janjgir-Champa (C.G.)
3. Smt. Heera Devi, W/o. Jagprasad Soni, R/o. Baloda, Tehsil Janjgir, District Janjgir-Champa (C.G.)

Vs.

RESPONDENTS

1. The State of Chhattisgarh, through Collector, District Janjgir-Champa (C.G.)
2. Sub Divisional Officer/Competent Authority (Land Acquisition Officer) District- Janjgir-Champa (C.G.)

Present : Shri Sunil Otwani, learned counsel for the petitioners.
Shri Prashant Mishra, learned Addl. A.G. with Shri Yashwant Singh, learned G.A. for the State.
Shri V.R. Tiwari, learned counsel for the intervener.

(ORAL ORDER)
(Passed on 16th February, 2006)

At the time of hearing, Shri Prashant Mishra, learned Addl. Advocate General brought to notice of the Court that the 2nd respondent – Sub Divisional Officer/Competent Authority (Land Acquisition Officer), District Janjgir-Champa has already passed the final order under the Chhattisgarh Underground Pipelines (Acquisition of Right of User in Land) Act, 2004 (for short 'the Act') on 26.02.2005. In this writ petition, the main relief sought by the petitioners is to direct the 2nd respondent not to

carryout any digging or construction over the land without following the provisions of the Act.

(2) Learned counsel for the petitioners would submit that though the final order is passed by the 2nd respondent on 26.02.2005, he did not follow the procedure prescribed under the Act. There is no need for the Court to appreciate and record finding on the above submission of the learned counsel for the petitioners. If that is the case, it is permissible for the petitioners to urge that ground also while assailing the validity of the order made by the 2nd respondent on 26.02.2005 in appropriate independent legal action. Reserving liberty to the petitioners to assail the validity of the order made by the 2nd respondent dated 26.02.2005 and leaving open all the contentions raised in this writ petition to be agitated at an appropriate stage, the writ petition is dismissed. No costs.

Sd/-
Chief Justice